GBLOG

App. F. IX-4

1926:7

File No. 46-26

Previous References

Geol 49-25 (3-9)
" 49-25 (10-13)

(Geol)

Serial Nos. 1-4

Later References

Borders if this
may be struck
it contains 2 confi
dential covers
1110

General and Revenue Secretariat.

(19)

Serial Nos. Four

Part B for Nov.r 26.

SUBJECT

Notice from Messrs Grant and Greatorex solicitors on behalf of Messrs C. W. Schomberg and H. J. E. McCarthy Mining Engineers

·1556 dt 4.9.26
To
Dr. of Geology
Forwards Re

This file Contains 2 Conf.l Covers

Gathering

1080 of 26
P
(1)

Ent. 46-26

G.R.S. III—3]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

1543

1206

Notice dated the 23rd August 1926 from Messrs Grant & Greatorex Solicitors on behalf of Messrs C. W. Schomberg & Mr. H. J. E. McCarthy stating that a suit would be filed against [illegible] for specific performance of a contract relating to the grant of a lease to [illegible] and requesting that

1) This has been noted in the Register (No. 74.) and [illegible] for perusal before [illegible] to Mr. C. Br. through A.S.G. Scott

Mrs Mc

CFFICE OF THE SECRETARIES OF COUNCIL
27 AUG. 1926
No. 1593

24/8 [illegible]

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

24/8/26 - Enclosed

24/8

L & L Scott [illegible] Seem. Very early action necessary. Mrs Mc

2/8/26

4) Early reply may be called for [illegible]

WD 01364—GPB—40,000—17-12-25
App. F. III—2]

1276

General and Revenue Secretariat | Genl File No. 46 of 1926.

Serial No.	
Genl. 79-25 CS 3-9 10-13	1) Subd. with references relating to the grant of a p.l. in the joint names of Messrs: Mac Carthy & Schomburg & subsequent Cancellation 3/8/26. 2) Subd for orders with previous refer. The point is whether the contract as between Govt (The Geol. Deptt) & the applicants, can be considered to have been concluded, before Govt cancellation their original Order of sanction, communicated to the Dir of Geology. Rsecy 1/9/26. 3) This question may be considered when A very early report on the letter may be obtained from the Director 2.9.26 4) Draft Subd: for approval 3/9/26 of Rev. Secy 3/9 5) To, Dir. Geology No. 1536 G-4/8/26 dated issued CS 3/9/26 Subd. above notice & a very early report on all the points Messrs Schomburg & Mac Carthy seem to have no case against the Directors letter Ld Secy with notes. For favour of views. All papers are enclosed. Very early reply is requested

d. 8th Sept 1926
Letter No 510-51 (Inam Cancs) from the Dir of Geology returning the letter of the above Solicitors, with his observations and his office file on the subject

NOTE—Contn. Sheet

1573

WD 01264—GPB—40,000—17-12-25

General and Revenue Secretariat

Red File No. 46 of 1926

App. F. III—2]

Serial No.

12) From the Director's letter it is clear that inasmuch as the license was not signed by the Director as per rule 24, no completed contract is made.

13) Hence there is no case for the applicants

8/9
9.9

Rec'd with compts

14) The Director's letter and the opinion of the L. A. dept. show that the Contract was not completed and no rights ~~under the license~~ passed to messrs schamberg and mac carthy.

15) The Govt. Advocate may be requested to put up a suitable reply to messrs Grant & Greatorex in consultation with L. A. dept. Reference para 3 above

2nd member)

CRo
12.9.26.

16) A - I agree

WP
13/9

Mudr.
13-9-26

Dewan) 17) For perusal. Action will be taken as per member's orders.

CRo
14.9.26

18) DM
14.9.26

WP
15/9

19) Draft CRo

OFFICE OF THE SECOND MEMBER OF COUNCIL
13 SEP. 1926
No. 2010

DEWAN'S OFFICE.
Received on
14. SEP. 1926
Reg. No. 1015

NOTE—Contn. Sheet

WD 01264—GPB—40,000—17-12-25

neral and Revenue Secretariat | Legl File No. 46 of 1926.

Serial No

19) Forwarded unofficially, with compliments, to the Govt. Advocate for doing the needful.

By order

CRanganatha Rao Sahib
Secretary to Govt. Rev Dept.

MB 17/9/26

20) I have perused the file. Before drafting a reply to the notice I desire to bring to the notice of Government my views of the law bearing on the point involved. I am enclosing in a separate sealed cover my opinion on the matter.

Govt Advocate
21/10/1926.

No. 2603/G26-27 dt 2.10.1926.

21) The opinion of the Govt. advocate is enclosed. The Legal & Legislative secretary may perhaps be requested to examine the note

CRs 4.10.26

2nd member) --) Yes MB 4/10/26

CRs 7/10/26

For early disposal

22) L & L secy with compliments } For favour remarks on the note very early

MB 8.10.26.

CRs 8-10-26

MB 9/10

OFFICE OF THE SECOND REGL. & LEGL. COUNCIL.
OCT. 1926
No. 2603.

NOTE—Contn. Sheet

WD 01264—GPB—40,000—17-12-25
[App. F. III.—2

General and Revenue Secretariat

10839/26

Rest File No. 46 of 1926.

Serial No.

24) My opinion is placed in a Cover

Dear Lee?
with Compts

8/11
2/11
call
3/11

25) The Local Legislative secretary adheres to the opinion originally expressed by him.

26) The time within which a reply to the letter of Solicitors had to be sent ie 23 October 1926. has already expired It is therefore absolutely necessary that a reply should be sent at once. If approved the Ld Secy may be asked to draft a reply himself

GRo
5.11.26

2nd member)

27) I agree. A reply as will be ~~suggested~~ Considered Suitable by the Land Secy may be sent at once. In View of the different opinions expressed by the Land Secy and the Court Advocate and the probability of the Case being taken to a Court of Law the file may be Subd for the information of Govt.

Govt
5-11-26

Mr
5.11.26

Ld Secy with compts

28) A reply may kindly be prepared very early

GRo
5.11.26

29) Draft ~~in Tuba of Singha~~ ~~and~~ appd. ~~Issue~~ Issue
20 5/11

NOTE—Contra. Sheet

Serial No.

30) Letter issued to the Solicitors — Draft is put up

Decided with Compts

8/11
5/11

31) Submitted for perusal

2nd member)

GDS 5/11/26

8/11/26

GDS 8.11.26

32) It seems necessary to keep the Dir of Revl informed of the action being taken in the matter with respect to this report

8/11

A draft forwarding a copy of letter issued to the Solicitors is subd. for appvl. or other orders.

8.11.26

Dft appd/ Subd for perusal before issue Second m²)

13/11

4) To,

Dir. of Geology

No 3477 of 18/11/26

Issue at once

9.11.26

19/11

FS. Copy of letter from the L&L. Secy. to the Solicitors & returns the whole file & Records of the Case

OFFICE OF THE SECOND SECRETARY OF COUNCIL
8 NOV. 1926
No. 3155.

OFFICE OF THE SECOND SECRETARY OF COUNCIL
18 NOV 1926
No. 3307

GEN. & REV. SECRETARIAT
DEVELOPMENT BRANCH
20 NOV. 1926

By Regd Post for Acknr 10295

GRANT & GREATOREX,
SOLICITORS,
MALEAS & BANGALORE.

95, LADY CURZON ROAD,
BANGALORE.

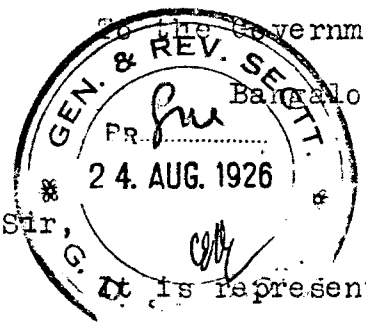
Dated 19th August 1926.

Dept. 23rd

The Chief Secretary

To the Government of His Highness the Maharaja of Mysore

Bangalore.



Sir,

It is represented to us by our clients Messrs. C.W. Schomburg and Mr. H.J.E. McCarthy that they are Mining Engineers working in Mysore the former since 1924 and the latter since 1905.

It is further represented to us by our clients that Mr. McCarthy having discovered a Copper Mine in the Taluk of Nanjangud had an interview with Mr. Schomburg and by arrangement between them Mr. McCarthy on the 26th November 1925 sent in to the Director, Department of Geology, Bangalore, an application for a prospecting license to be granted to him over the area containing two square miles marked on the extract of the village maps of the Revenue Survey from the topographical Survey Map of Mysore in the villages of Belagunda and Kisagunda in the Nanjangud Taluk, Mysore District to win copper ore therefrom and having paid Rs.30/- into the treasury, the fee in respect of the said application he enclosed the receipt in his said application.

It is further represented to us by our clients that shortly thereafter Mr. Schomburg in course of Conversation with Mr. Mr. K. Sreenivasiengar, First Member of Council at Bangalore mentioned the existence of copper ore in the said taluk and that Mr. McCarthy had put in an application for a prospecting license and had not received any reply whereupon the said Member of Council suggested that he the said Mr Schomburg should himself apply for

the said prospecting license.

It is further represented to us by our clients that subsequently the said Mr. Schomburg had an interview with Mr. Sen the acting Director of the Geological Department who informed him that the 1st Member of Council had spoken to him about the matter and had suggested that he Mr. Schomburg should send in a written application, but to this Mr. Schomburg demurred saying that he did not think it fair that an application should be made without reference to Mr. McCarthy, and Mr. Sen also suggested that Mr. Schomburg should send in a scheme for working the said Copper Mine giving particulars of the same. Thereupon, on the 3rd February 1926, our client, the said Mr. Schomburg submitted his scheme for working the said copper mine and our clients desire that reference should be made to the terms of the said communication of February 3rd 1926 in support of this letter.

It is further represented to us by our clients that on the 1st March 1926 our client Mr. Schomburg received a letter from the said Mr. Sen requesting him to state for the information of Government as to whether he had come to any definite arrangement with Mr. H.J.S. McCarthy in the matter of submitting a joint application for working the Copper block in Nanjangud in consequence of which on the 24th February 1926 a formal application was sent in by our clients to the Director, Department of Geology, Bangalore, and a sum of Rs.250/- was paid in by our clients being the fees for the same which was duly acknowledged.

It is further represented to us by our clients that on the 19th May 1926 Mr. Sen as Officiating Director, Mysore Geological Department agreed on behalf of the Government of His Highness the Maharaja of Mysore, that they should be given a lease of the area applied for on the conditions stated in the said letter, and thereupon our clients made arrangements for financing the opening up and working of the said copper mine, and made a commitment in regard to

the same with their financers and this they did on the assurance that the Government of His Highness the Maharaja of Mysore would carry out the agreement on the terms above referred to.

It is further represented to us by our clients that with a view to begin operations our client the said Mr. MacCarthy with the knowledge and consent of the said Mr. Schomburg wrote to Mr. B. Jayaram the then Director of the Geological Department of Mysore on the 29th June 1926 asking for permission to begin work on the copper block sanctioned to our clients pending the issue of the license and on the 14th July the said Mr. B. Jayaram by his letter of even date stated that his request could not be complied with as it was not considered desirable to do so and that the license itself would be issued at a very early date.

It is further represented to us by our clients that on the 2nd August 1926 to their great surprise they received a letter dated the 30th July signed by the said Mr. Jayaram, informing them, with reference to their application dated 24th February 1926 that on reconsideration Government did not propose to grant our clients a prospecting license over the area.

It is further represented to us by our clients that they fail to understand how the said letter of Mr. Jayaram of the 30th July 1926 came to be written particularly as in his letter of the 14th July 1926 that Official stated that the license itself woulf be issued at a very early date.

It is further represented to us by our clients that they are not conscious that they have done anything to warrant the Government committing, as they contend the Government has done, such a clear and gross breach of the contract entered into on their behalf and they feel very acutely that they have been unjustly treated.

have been unjustly treated .

Our clients feel constrained to take the matter up and to enforce their claim for the specific performance of the said contract by the Government of His Highness the Maharaja of Mysore above referred to.

In compliance with the provisions of the law relating thereto we on our clients' behalf hereby call upon the Government of His Highness the Maharaja of Mysore to issue the necessary orders for the cancellation of Mr. Jayaram's letter of the 30th July 1926 and that a lease should be granted to our clients on the same terms as are mentioned in the letter of the 19th July 1926 and to give the Government of His Highness the Maharaja of Mysore notice that if compliance of this request is not made within the period prescribed, namely two months from this date, our clients will file suit in the proper court for the specific performance on the part of the said Government of His Highness the Maharaja of Mysore of the said contract.

We have the honour to be,

Sir,

Yours faithfully,

Paul & Pealoren

APP. F. VI. Gl.]

SUBJECT.....

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Section Excl

File No. 46-26

Serial No. 2

No. Jc. 1556 Dy 4/9/26

Excl cre

Diary No. of letter replied to..... 1226.

To

The Dir. of Excl

General and Revenue Secretariat

( )

the *192*

Sir

Date of issue..... 4.9.26

Signed by..... N.V. J. A. Gunga

In forwarding herewith for reference & return a letter (in original) ~~from~~ dy. 23.8.26 from Messrs. Grant & Greaton Solicitors, Madras & Bangalore ~~stating~~ on behalf of Messrs C.W. Schomburg & MacCarthy Mining Engineers stating that they would file a suit against Govt for the specific performance of a contract relating to the grant of a licence for copper over an area of 2 Sq. miles of land

List of enclosures.....

Copied by.....

Examined by.....

over

6

in the Nanjangud Taluk I am
directed to request you to submit
a report in detail on all the
points raised in the ~~Notice~~
letter under reference at a
very early date

I have the

Yours
Secy. to Govt
Rev Dept

8/9

VB

Immediate and Confidential.
Geol. 46-26-3

M.G.D.12.]

DATED, BANGALORE,
8.9.26.

No. 510-51
Encl. One file. & one letter.

GEN. & REV. SECRETARIAT
18 SEP 1926
INDUSTRIES & COMMERCE
BRANCH

F. 15 73

FROM

B. JAYARAM, ESQ., F.G.S.,
Director, Mysore Geological Department.

Geol. 46-26-3

To

C. Ranganatha Rao Saheb, Esq., B.A., B.L.,
Secretary to the Government of
His Highness the Maharaja of Mysore,
REVENUE DEPARTMENT

SIR,

With reference to your letter No:I.C.1556/Geol:46-26-2, dated 4th September 1926, forwarding letter in original dated 23rd August 1926, from Messrs.Grant and Greatorex, Solicitors, in re - the refusal to grant a Prospecting License for copper to Messrs.C.W.Schomburg and H.J.E.MacCarthy, I have the honour to submit herewith my observations on the points raised in the - Solicitors' letter:-

Para 1. As stated Mr.C.W.Schomburg has been working in Mysore on two chrome blocks since March 1924.

Mr.MacCarthy has been known to the Department since 1913 when he was granted a Prospecting License and prior to that he appears to have been working in company with other licensees.

Para 2. Application was first made by Mr.MacCarthy independently for a Prospecting License over the copper block on 1-12-25, - (not 26-11-25) accompanied by a sketch of the block and a Treasury Receipt for Rs.30/- paid on account of the fee. On the same date application was made by him for an approval certificate - accompanied by a Treasury Receipt for Rs.25/-.

Paras 3, 4 & 5. The facts mentioned in these paras relate to personal interviews with the Member of Council and Mr.Sen, then Offg. Director of which there is no record in the office. The application of Mr.MacCarthy was submitted on 1-2-26 to Government by Mr.Sen, recommending the grant of the license to him, subject to certain conditions. On 3rd February when Mr.Sen was

was camping on Mr.Schomburg's chrome block Mr.Schomburg presented to him a cheme for working the copper block in case Government should grant him a license over the same Then, as a result of the personal talk in the matter Mr.Sen submitted to Government the scheme of Mr.Schomburg and suggested alternative proposals in the matter of the grant of the license. As a result of the negotiations between the two gentlemen a joint application from them, dated 24-2-26, was received in this office on 2-3-26 and on the 4th idem the grant of a license in their joint names was recommended. Later Mr.Schomburg was required to have his certificate of approval renewed for the current year which he did by paying in the required fee of Rs.25/- Finally on the 26th March the grant of a license in the joint names of the applicants was recommended to Government. On the 12th May the Government order No.I.C.7798/Geol.79-25-9 sanctioning the grant of the license to the applicants was received.

Para 6.The order of Government was intimated to the applicants on 19-5-26 and demand for Rs.280/- on account of rent and deposit was sent with one month's time for payment. On the 17th June was received (through Mr.Sen,) from Mr.MacCarthy Treasury Receipts for Rs.140/- saying that that was his share of the rent and deposit. Again on 18th June was received receipts for Rs.280/- from Mr.Schomburg.

Para 7.Mr.MacCarthy in his letter, dated 29-6-26 asked for permission to start operations in the block pending the issue of the license and on the 14th July a reply was sent to him that the request cannot be complied with as it was not a desirable procedure and that the license itself would be issued at a very early date.

Para 8.On the 19th July D.O.No:479 was received from the Revenue Secretary asking that the issue of the license may be kept in abeyance and on the 30th July official letter was received being the re-considered order of Government in the matter. On the 31st the same was communicated to the parties.

Para 9.The communications of 14th & 31st July referred to were issued in the natural course of events.

Para 10. Here mention is made of Government's commitment to the grant of a license and of breach of contract. There is nothing on the part of the applicants in the present case to warrant the refusal of the license once sanctioned. As stated in my D.O. letter to Government No:510-39 dated 20th July, the parties are not capitalists in themselves and on moral grounds they are utterly undeserving of encouragement in the State. The fact that Mr. MacCarthy sent us Rs.140/- as his share of the money in respect of the joint license to be granted is in itself evidence to conclude that the combination between the two gentlemen was not on firm - ground. The so called commitment is only a promise which on - moral grounds requires to be respected. But it has no legal basis since it is clear from Rule 24 of our Rules for grant of licenses etc. that the applicants shall not be entitled to exercise any of the privileges of a licensee until the license is signed by the Director. Again under Rule 17 the Government reserve the power of refusing to grant a license without assigning a reason. This power can, it is submitted, be exercised by Government until the license has actually been signed or issued.

In para 6 of the Solicitors' letter it is stated that the applicants made arrangements for financing the opening up and working of the mine and made a commitment with their financiers, being assured from the Government of the grant of a license. This may have been so, but the commitments, if any, made by the applicants ~~is~~ are at their own risk since the contract between the Government and the applicants cannot be stated to be complete until the license is signed.

At any stage of administrative proceedings it may happen that Government may come into possession of fresh facts relating to the applicants as a result of which they may exercise their power to refuse grant of a license which has not yet issued and this has been done in the present case.

Para 11. In the circumstances of the case as above I beg to submit that there has been no contract in the strict sense of the word the

the specific performance of which can be claimed by the applicants.

Para 12. This contains threat for legal proceedings against Government and I would suggest that the legal advisers of Government may be consulted in the matter.

It may also be stated here for the information of Government that Mr.MacCarthy held this indentical block for six years between 1913 and 1919 but his work during this long period was not sufficient to determine if any body of payable ore existed. In 1922 Mr.Sundara Murty, son of Mr.V. Manickavelu Mudaliar, held the block under a license and the work done disclosed the promising nature of the deposit and the further work required for its being proved.

The original letter of the Solicitors with the complete file of this office relating to the case is forwarded herewith. The file may kindly be returned when done with.

I have the honour to be,
S i r,
Your most obedient servant,

B. Rama Rao

D i r e c t o r,
Mysore Geological Department.

B.N.L/8.

11

No 0 1929/Law

dy 5/11/26

To

Messrs. Grant & Greatorex,
Solicitors, 95, Lady Curzon Rd
Bangalore.

Gentlemen,

With reference to your notice dated the 25th August 1926, on behalf of Messrs. C.W.Schomburg and H.J.E.McCarthy in regard to the grant of a prospecting license, I am directed to state that ~~the~~ no concluded contract has been reached between the parties by the correspondence referred to in your notice as contemplated by the Rules under which the application for the grant of the license was made, and that in consequence the Government have not committed any breach of any covenant, for which they can be held liable.

I have &c.,

S Rangappa.
Local and Legislative
Secretary.

APP. F. VI. Gl.]

SUBJECT.....

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Section Ext.
File No. 48-4
Serial No 4
No. D 36778 (8/4/26

To Send me the file
the Dir of Ecol

Diary No. of letter replied to 1573

General and Revenue Secretariat
( )
the 192

Date of issue 19.11.26

Signed by Mr. V. Rangaiya

Sir

With reference to your letter No. 510-57 of 8.9.26 in the matter of the refusal to grant a p.l. for Coffee in favour of Messrs. C. W. Schomburg & Macartney for information I am directed to forward herewith a copy of letter No. P. 1929/Law of 5-11-26 from the Local & Legislative Secy. to the solicitors. for your information

List of enclosures.....

Copied by.....

Examined by.....

The entire file of Coffee received with your letter under

over

WD 01265—GPB—31,000—24-12-25

13

reply is herewith returned.

Thanks

WO 13/11

† Asst. Secy

Note 17.11.26

2nd WB